

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA

FILED  
U.S. DISTRICT COURT  
AUGUSTA, GA.

2010 MAR -1 P 3:16

DUBLIN DIVISION

CLERK *B. McCarthy*

JAMES ROSS FINCHER,

Plaintiff,

v.

CV 308-108

MICHAEL J. ASTRUE, Commissioner  
of Social Security Administration,

Defendant.

**ORDER**

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which no objections have been filed. Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Therefore, pursuant to sentence four of 42 U.S.C. § 405(g), the Commissioner's final decision is **REVERSED**, and this case is **REMANDED** to the Commissioner for further consideration in accordance with the Court's opinion.<sup>1</sup>

SO ORDERED this 1st day of March, 2010, at Augusta, Georgia.

*Rudolph H. Bower*  
UNITED STATES DISTRICT JUDGE

<sup>1</sup>Plaintiff has requested, if he is awarded benefits by the Commissioner on remand, an extension of thirty (30) days from the receipt of the "close-out letter" required by POMS GN 03930.091 to file the request for attorney's fee. Under POMS GN 03930.091 the Commissioner is required to send a claimant's counsel a "close-out letter" notifying counsel that a portion of the claimant's retroactive benefit is available for payment of a contingency fee. Upon consideration, Plaintiff's motion is **GRANTED**. The motion for attorney's fees under the Social Security Act must be filed within thirty (30) days of receipt of the "close-out letter" necessary for a calculation of the fee award.